IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Revision No. 2494 of 2005.

Date of decision : 11.12.2006

New India Assurance Co. Ltd. ... Petitioner

Versus

Rekha Rani and others ... Respondents.

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Present: Mr. Paul S. Saini, Advocate
for the petitioner.

Mr. J.S.Cooner, Advocate
for the respondents.

...

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

JUDGMENT

Challenge in the present civil revision is to the order dated 31.3.2005 passed by the Motor Accidents Claims Tribunal, Chandigarh, whereby the respondents-claimants have been permitted to amend the claim petition so as to allege the income of the deceased at Rs.40,000/- per annum.

Respondents have sought compensation vide claim petition under Section 163-A of the Motor Vehicles Act, 988 (hereinafter referred to as 'the Act') on account of death of Mukesh Kumar son of Brij Lal. Though originally it was pleaded that the income of the deceased was Rs.8,000/- per month but subsequently the claimants sought to amend the petition so as to assert that the income of the deceased was Rs.40,000/- per year. The sole argument of learned

counsel for the petitioner is that in view of the judgment of the Hon'ble Supreme Court in the case of **Deepal Girishbhai Soni and others** versus **United India Insurance Co. Ltd.**, 2004 ACJ 934, a claimant has to elect his remedy and cannot be permitted to claim compensation under Section 163-A of the Act as well as under Section 166 of the said Act.

In my view, the said judgment in **Deepal Girishbhai's** case (supra) provides little assistance to the petitioner inasmuch as the claimants in the present case have sought to amend the averments made in the claim petition under Section 163-A of the Act. By virtue of the amendment sought, the claimants are satisfying the necessary ingredients to claim compensation under Section 163-A of the Motor Vehicle Act. It is not the case where the claimants have sought compensation under Section 163-A as also under Section 166 of the Act.

Consequently, I do not find any illegality or irregularity in the order passed by the learned Motor Accidents Claims Tribunal, Chandigarh, which may warrant any interference by this Court in the exercise of its revisional jurisdiction.

Dismissed.

(HEMANT GUPTA)
JUDGE

December 11, 2006
RS